

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

BETHANY K. SMITH

PLAINTIFF

V.

CIVIL ACTION NO. 1:10CV217-B-S

CITY OF TUPELO, MISSISSIPPI

DEFENDANT

**ORDER**

Presently before the court is the plaintiff's motion to strike Exhibits A and C from defendant's rebuttal in support of its motion for summary judgment. Upon due consideration, the court finds as follows:

The plaintiff has withdrawn her objection to defendant's Exhibit A, and the motion to strike said exhibit is hereby **DENIED as moot**.

Defendant's Exhibit C, the affidavit of Anthony Hill, will be considered as rebuttal evidence in response to the plaintiff's argument that the Tupelo Police Department has no female members on its SWAT team. The court finds that the prejudice potentially suffered by the defendant by the exclusion of this testimony outweighs the prejudice potentially suffered by the plaintiff by its admission. *See Hamburger v. State Farm Mut. Auto. Ins. Co.*, 361 F.3d 875, 883 (5<sup>th</sup> Cir. 2004). The plaintiff's motion to strike Exhibit C is therefore **DENIED**.

**SO ORDERED AND ADJUDGED** this, the 8<sup>th</sup> day of March, 2012.

/s/ Neal Biggers

**NEAL B. BIGGERS, JR.**

**UNITED STATES DISTRICT JUDGE**